

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-0448-IWD-E **TCEQ ID:** RN100809268 **CASE NO.:** 33043
RESPONDENT NAME: Charley's Concrete Co., Ltd.

Page 1 of 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Concrete Plant 3, 14960 I 35W, Justin, Denton County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 16, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Jorge Ibarra, P.E., Enforcement Division, Enforcement Team 3, R-04, (817) 588-5890; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: Mr. Brent Pennington, Vice President, Charley's Concrete Co., Ltd., Post Office Box 1106, Keller, Texas 76244 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review Date(s) of Complaints Relating to this Case: None Date of Investigation Relating to this Case: March 6, 2007 Date of NOE Relating to this Case: March 16, 2007 (NOE) Background Facts: This was a routine records review. One violation was documented. WASTE Failure to comply with permit effluent limits [General Permit No. TXG110353, Numeric Effluent Limitations, 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a)].	Total Assessed: \$2,500 Total Deferred: \$500 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay SEP Conditional Offset: \$0 Total Paid to General Revenue: \$2,000 Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Applicable Penalty Policy: September 2002	Ordering Provisions: The Order will require the Respondent to: Within 30 days after the effective date of this Agreed Order, submit written certification of compliance with General Permit No. TXG110353, Numeric Effluent Limitations.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 19, 2007

TCEQ

DATES

Assigned 19-Mar-2007

PCW 29-Mar-2007

Screening 23-Mar-2007

EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent Charley's Concrete Co., Ltd.

Reg. Ent. Ref. No. RN100809268

Facility/Site Region 4-Dallas/Fort Worth

Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No. 33043

Docket No. 2007-0448-IWD-E

Media Program(s) Water Quality

Multi-Media

No. of Violations 1

Order Type 1660

Enf. Coordinator Jorge Ibarra, P.E.

EC's Team EnforcementTeam 4

Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$2,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 25% Enhancement

Subtotals 2, 3, & 7 \$500

Notes

The Respondent was issued one NOV with the same or similar type of violations and self-reported four months of effluent violations.

Culpability

No

0% Enhancement

Subtotal 4 \$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

0% Reduction

Subtotal 5 \$0

Before NOV

NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes

The Respondent does not meet the good faith criteria.

Total EB Amounts \$417

Approx. Cost of Compliance \$5,000

0% Enhancement*

*Capped at the Total EB \$ Amount

Subtotal 6 \$0

SUM OF SUBTOTALS 1-7

Final Subtotal \$2,500

OTHER FACTORS AS JUSTICE MAY REQUIRE

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Adjustment \$0

Notes

Final Penalty Amount \$2,500

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$2,500

DEFERRAL

20%

Reduction

Adjustment -\$500

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$2,000

Screening Date 23-Mar-2007

Docket No. 2007-0448-IWD-E

PCW

Respondent Charley's Concrete Co., Ltd.

Policy Revision 2 (September 2002)

Case ID No. 33043

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN100809268

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	5	25%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 25%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

The Respondent was issued one NOV with the same or similar type of violations and self-reported four months of effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 25%

Screening Date 23-Mar-2007

Docket No. 2007-0448-IWD-E

PCW

Respondent Charley's Concrete Co., Ltd.

Policy Revision 2 (September 2002)

Case ID No. 33043

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN100809268

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1

Rule Cite(s) General Permit No. TXG110353, Numeric Effluent Limitations, 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121(a)

Violation Description Failed to comply with permit effluent limits. See attached Effluent Limit Violation Table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to comply with the permitted limits for pH and total suspended solids ("TSS") resulted in the exposure of insignificant amounts of pollutants which do not exceed levels that are protective of human health or the environment as the result of the excursions.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2

122 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,000

Two quarterly events are recommended based on the months the permitted limits were exceeded (04/06, 05/06, 06/06, and 10/06).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$417

Violation Final Penalty Total \$2,500

This violation Final Assessed Penalty (adjusted for limits) \$2,500

Economic Benefit Worksheet

Respondent Charley's Concrete Co., Ltd.
Case ID No. 33043
Reg. Ent. Reference No. RN100809268
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$5,000	1-Apr-2006	1-Dec-2007	1.7	\$417	n/a	\$417

Notes for DELAYED costs

Estimated cost to provide additional oversight and sampling which may have alleviated or prevented the noncompliance. Date Required is the first day of non-compliance, Final Date is the expected compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$417

table rev.

Jorge Ibarra, P.E.

1

Permit Limit

[illegible]

Name	Abbreviation
milligrams per liter	mg/L
pounds per day	lbs/day
million gallons per day	MGD
total suspended solids	TSS
5-day biochemical oxygen demand	BOD5
carbonaceous biochemical oxygen demand	CBOD
ammonia-nitrogen	NH3-N
dissolved oxygen	DO
compliant (no excursions)	c

Compliance History

Customer/Respondent/Owner-Operator: CN600420434 Charley's Concrete Co., Ltd. Classification: AVERAGE Rating: 2.96

Regulated Entity: RN100809268 CONCRETE PLANT 3 Classification: AVERAGE Site Rating: 1.50

ID Number(s): AIR NEW SOURCE PERMITS ACCOUNT NUMBER 932820G
 AIR NEW SOURCE PERMITS REGISTRATION 32820
 WASTE WATER GENERAL PERMIT PERMIT TXG110353
 PETROLEUM STORAGE TANK REGISTRATION 69564
 REGISTRATION

Location: 14960 I 35W, JUSTIN, TX, 76247 Rating Date: September 01 06 Repeat Violator: NO

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: August 14, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: March 21, 2002 to March 21, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Jorge Ibarra, P.E. Phone: (817)588-5890

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A

B. Any criminal convictions of the state of Texas and the federal government.
N/A

C. Chronic excessive emissions events.
N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 05/17/2006 (507834)
- 2 05/17/2006 (507836)
- 3 06/05/2006 (507835)
- 4 07/17/2006 (530149)
- 5 08/03/2006 (530151)
- 6 08/21/2006 (530140)
- 7 08/21/2006 (530141)
- 8 08/21/2006 (530142)
- 9 08/21/2006 (530143)
- 10 08/21/2006 (530144)
- 11 08/21/2006 (530145)
- 12 08/21/2006 (530146)
- 13 08/21/2006 (530147)
- 14 08/21/2006 (530148)
- 15 08/21/2006 (530150)
- 16 08/21/2006 (530153)
- 17 08/21/2006 (530154)
- 18 08/21/2006 (530155)
- 19 08/21/2006 (530156)
- 20 08/21/2006 (530157)
- 21 08/21/2006 (530158)

22 08/21/2006 (530159)
 23 08/21/2006 (530160)
 24 08/28/2006 (530152)
 25 10/09/2006 (552932)
 26 10/20/2006 (552933)
 27 12/11/2006 (552934)
 28 03/16/2007 (543102)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date	04/30/2006	(507834)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	05/31/2006	(507835)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	06/30/2006	(530149)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	09/25/2006	(489531)		
Self Report?	NO		Classification	Moderate
Citation:	TWC Chapter 26 26.121[G]			
Rqmt Prov:	PERMIT TXG110000 Part II.B.3			
Description:	Failure to prevent a noncompliant discharge of wastewater to water in the state.			
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			
Rqmt Prov:	PERMIT TXG110000 Part I.C			
Description:	Failure to conduct monitoring activities from the time of permit issuance through March 2006.			
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			
Rqmt Prov:	PERMIT TXG110000 Part I.E.3.d			
Description:	Failure to conduct inspections a minimum of once per month.			
Date	10/31/2006	(552933)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CHARLEY'S CONCRETE CO., LTD.
RN100809268**

§ **BEFORE THE**
§
§
§ **TEXAS COMMISSION ON**
§
§
§ **ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-0448-IWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Charley's Concrete Co., Ltd. ("Charley's Concrete") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Charley's Concrete appear before the Commission and together stipulate that:

1. Charley's Concrete owns and operates a wastewater treatment facility at 14960 Interstate 35W in Justin, Denton County, Texas (the "Facility").
2. Charley's Concrete has discharged industrial waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and Charley's Concrete agree that the Commission has jurisdiction to enter this Agreed Order, and that Charley's Concrete is subject to the Commission's jurisdiction.
4. Charley's Concrete received notice of the violations alleged in Section II ("Allegations") on or about March 21, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Charley's Concrete of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Two Thousand Five Hundred Dollars (\$2,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Charley's Concrete has paid Two Thousand Dollars (\$2,000) of the administrative penalty and

OFFICE OF THE
MANAGING EDITOR
535 N. Dearborn St.,
Chicago, Ill.

Subscription price, Five Dollars Per Annum in Advance. Single Copies, Fifteen Cents. Entered as Second-Class Matter, October 3, 1918. Postpaid. Accepted for mailing at special rate of postage provided for in Act of October 3, 1917. Authorizes sale at wholesale price of ten copies per gross. Paid for mailing at special rate of postage provided for in Act of October 3, 1917. Paid for mailing at special rate of postage provided for in Act of October 3, 1917.

Subscription price, Five Dollars Per Annum in Advance. Single Copies, Fifteen Cents. Entered as Second-Class Matter, October 3, 1918. Postpaid. Accepted for mailing at special rate of postage provided for in Act of October 3, 1917. Authorizes sale at wholesale price of ten copies per gross. Paid for mailing at special rate of postage provided for in Act of October 3, 1917. Paid for mailing at special rate of postage provided for in Act of October 3, 1917.

Subscription price, Five Dollars Per Annum in Advance. Single Copies, Fifteen Cents. Entered as Second-Class Matter, October 3, 1918. Postpaid. Accepted for mailing at special rate of postage provided for in Act of October 3, 1917. Authorizes sale at wholesale price of ten copies per gross. Paid for mailing at special rate of postage provided for in Act of October 3, 1917. Paid for mailing at special rate of postage provided for in Act of October 3, 1917.

Subscription price, Five Dollars Per Annum in Advance. Single Copies, Fifteen Cents. Entered as Second-Class Matter, October 3, 1918. Postpaid. Accepted for mailing at special rate of postage provided for in Act of October 3, 1917. Authorizes sale at wholesale price of ten copies per gross. Paid for mailing at special rate of postage provided for in Act of October 3, 1917. Paid for mailing at special rate of postage provided for in Act of October 3, 1917.

Subscription price, Five Dollars Per Annum in Advance. Single Copies, Fifteen Cents. Entered as Second-Class Matter, October 3, 1918. Postpaid. Accepted for mailing at special rate of postage provided for in Act of October 3, 1917. Authorizes sale at wholesale price of ten copies per gross. Paid for mailing at special rate of postage provided for in Act of October 3, 1917. Paid for mailing at special rate of postage provided for in Act of October 3, 1917.

Subscription price, Five Dollars Per Annum in Advance. Single Copies, Fifteen Cents. Entered as Second-Class Matter, October 3, 1918. Postpaid. Accepted for mailing at special rate of postage provided for in Act of October 3, 1917. Authorizes sale at wholesale price of ten copies per gross. Paid for mailing at special rate of postage provided for in Act of October 3, 1917. Paid for mailing at special rate of postage provided for in Act of October 3, 1917.

Subscription price, Five Dollars Per Annum in Advance. Single Copies, Fifteen Cents. Entered as Second-Class Matter, October 3, 1918. Postpaid. Accepted for mailing at special rate of postage provided for in Act of October 3, 1917. Authorizes sale at wholesale price of ten copies per gross. Paid for mailing at special rate of postage provided for in Act of October 3, 1917. Paid for mailing at special rate of postage provided for in Act of October 3, 1917.

Subscription price, Five Dollars Per Annum in Advance. Single Copies, Fifteen Cents. Entered as Second-Class Matter, October 3, 1918. Postpaid. Accepted for mailing at special rate of postage provided for in Act of October 3, 1917. Authorizes sale at wholesale price of ten copies per gross. Paid for mailing at special rate of postage provided for in Act of October 3, 1917. Paid for mailing at special rate of postage provided for in Act of October 3, 1917.

Five Hundred Dollars (\$500) is deferred contingent upon Charley's Concrete's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Charley's Concrete fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Charley's Concrete to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Charley's Concrete have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Charley's Concrete has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, Charley's Concrete is alleged to have failed to comply with permit effluent limits, in violation of General Permit No. TXG110353, Numeric Effluent Limitations, 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a), as documented during a record review conducted on March 6, 2007, as indicated in the table below.

EFFLUENT PARAMETER		
Permit Limit		
	Maximum pH	TSS Daily Maximum
Month/Year	9	65 mg/L
Apr-06	9.26	300
May-06	11.05	84
Jun-06	10.68	150
Oct-06	c	72

mg/L = milligrams per liter c = compliant
TSS = total suspended solids

III. DENIALS

Charley's Concrete generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Charley's Concrete pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Charley's Concrete's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Charley's Concrete Co., Ltd., Docket No. 2007-0448-IWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that Charley's Concrete shall undertake the following technical requirements:

Within 30 days after the effective date of this Agreed Order, submit written certification of compliance with General Permit No. TXG110353, Numeric Effluent Limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Q. Now, you're saying that the only way to get a copy of the document is to go to the office of the person who has the document, is that right?

A. Yes, that's right. I mean, if you want to get a copy of the document, you have to go to the office of the person who has the document. I mean, if you want to get a copy of the document, you have to go to the office of the person who has the document. I mean, if you want to get a copy of the document, you have to go to the office of the person who has the document.

Q. Now, you're saying that the only way to get a copy of the document is to go to the office of the person who has the document, is that right?

with a copy to:

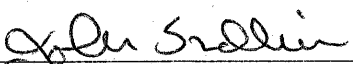
Water Section, Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118

3. The provisions of this Agreed Order shall apply to and be binding upon Charley's Concrete. Charley's Concrete is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Charley's Concrete fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Charley's Concrete's failure to comply is not a violation of this Agreed Order. Charley's Concrete shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Charley's Concrete shall notify the Executive Director within seven days after Charley's Concrete becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Charley's Concrete shall be made in writing to the Executive Director. Extensions are not effective until Charley's Concrete receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Charley's Concrete in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Charley's Concrete, or three days after the date on which the Commission mails notice of the Order to Charley's Concrete, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

8/16/2007
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

5/07/07
Date

Brent R. Pennington

Name (Printed or typed)
Authorized Representative of
Charley's Concrete Co., Ltd.

Vice-President, CCHC, LLC GEN. P.T.

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

